



PUBLIC NOTICE

US Army Corps
of Engineers
St. Louis District

Applicant: U. S. Army Corps of Engineers

Date: June 19, 2008

Expires: July 9, 2008

Regional Permit 26

Section: 10/404

Joint Public Notice

US Army Corps of Engineers

Illinois Environmental Protection Agency

Illinois Department of Natural Resources/Office of Water Resources

Re-Issuance of Regional Permit 26

Emergency Reconstruction and Repair Activities for Flood Damaged Areas
in All Waters of the United States
In the State of Illinois (Regional Permit 26)

1. **Applicant.** U. S. Army Corps of Engineers, St. Louis District, Regulatory Branch, 1222 Spruce, St. Louis, Missouri 63103-2833.

2. **Project Location.** This regional permit will authorize work in waters of the United States (including rivers, lakes, streams and wetland areas) associated with emergency reconstruction and repair activities in counties declared flood disaster areas by the States of Illinois.

3. **Project Description.** The District Engineer, St. Louis District, Corps of Engineers, has established this regional permit for completed and ongoing flood emergency fills and for proposed emergency repair measures for flood damaged areas.

a. This regional permit authorizes the following emergency protection and repair measures that are not exempted or already authorized by Nationwide, Regional, or Individual permits:

- a. Repair of levees to existing elevations and cross-section, including breach closures and borrow operations
- b. Bridge embankment protection (armoring) or repair
- c. Repair of pre-existing highway or railroad embankments and the addition or repair of stone (armoring) protection
- d. Repair of pre-existing utility protection structures
- e. Placement of rock and/or earth materials for stream/ditch bank protection and/or stream/ditch bank restoration
- f. Drainage ditch restoration to pre-flood capacity and flow line unless the flow line must be altered due to other damage associated with the flood event
- g. Restoration of creek channels to pre-flooding alignment and capacity
- h. Construction of temporary haul roads to facilitate the completion of any of the listed activities

Note: Maintenance of existing flood damaged structures and/or flood damaged fills, which have been previously authorized, may be authorized by Nationwide Permit No. 3 or exempted by Part 323.4 of Federal regulations 33 CFR 320-331. The repair of uplands damaged by storms, floods or other discrete events may be authorized by Nationwide Permit No. 45 upon notification and review by the appropriate Corps of Engineers District, Regulatory Branch.

b. Special Conditions.

1. This regional permit authorizes the discharge of dredged or fill material and other work associated with emergency restoration, repair, or reconstruction measures performed in waters of the United States within the State of Illinois as a result of damages recently incurred during flooding in 2008. Work will be limited to that necessary to restore damaged areas to pre-flood conditions. The time period for completing the proposed work is 180 days from each permit determination.

2. All channel restoration work will be limited to restoring the area to pre-flood conditions and verified using United States Department of Agriculture, Natural Resource Conservation Service, aerial photographs, or other qualifiable data, plans, etc. Channel restoration of areas not caused by the flood of 2008 or otherwise not verifiable, is not authorized under these regional permits.

3. Clean, uncontaminated materials must be used for fill in order to minimize excessive turbidity by leaching of fines, as well as to preclude the entrance of deleterious and/or toxic materials into waters of the United States by natural runoff or by leaching. All fill materials must be obtained from upland nonwetland sources or authorized excavation sites. Use of small aggregate materials, such as creek gravel, for stabilization and erosion control is prohibited under these regional permits.

4. Temporary levees, accesses, and other fills must involve the least damaging and minimum disturbance/impacts to waters of the United States. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must be of materials and placed in a manner that will not be eroded by expected high flows. Temporary fill (including sandbags) must be entirely removed to upland nonwetland areas following completion of the construction activity and the affected areas restored to the pre-project conditions. Cofferdams cannot be used to dewater wetlands or other aquatic areas so as to change their use.

5. Any construction debris or waste materials may not be disposed of below the ordinary high water mark of any water body, in a wetland area, or at any location where the material could be introduced into the water body or an adjacent wetland as a result of run off, flooding, wind, or other natural forces.

6. All dredged or excavated materials, with the exception of that authorized herein, will be placed on an upland site above the ordinary high water line in a confined area, not classified as a wetland, to prevent the return of such material to the waterway.

7. All excavation, dredging, and/or filling in the watercourse must be conducted in a manner that will minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.

8. All debris during every phase of the project must be immediately removed and properly disposed of in order to prevent accumulation of unsightly, deleterious and/or toxic material in or near the water body.

9. All construction materials, equipment, and/or petroleum products, when not in use, must be stored above anticipated high water levels.

10. All structures will be designed and constructed in such a way that they do not result in stream channel constriction or in redirection of flows in such a way as to cause upstream or downstream erosion, or other property damage.

11. The clearing of timber and other vegetation will be restricted to the absolute minimum required to accomplish the work. The removal of mature trees must be avoided to prevent potential impacts to bald eagle roost sites and Indiana bats.

12. Upon completion of earthwork operations, all fills in the water or on shore, and other areas on shore disturbed during construction must be seeded, replanted, or otherwise protected from erosion. The use of crown vetch should be avoided. If seeding does not successfully vegetate the disturbed areas by the end of the first growing season, alternate measures, such as placing riprap, slope terracing with untreated railroad ties, gabions or concrete blocks, or additional vegetative plantings to protect the disturbed areas from further erosion must be implemented. You must contact the Corps of Engineers prior to beginning work on any additional erosion control measures so that we can determine if further authorization will be required.

13. Only graded rock, quarry-run rock and/or clean concrete rubble may be used for riprap. The material must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least some 150-pound pieces. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15 percent of the total fill volume. If concrete rubble is used, all large slabs must be broken to conform to the well-graded requirement. All exposed reinforcement rods, trash, asphalt, and other extraneous materials must be removed before the rubble is placed in waters of the United States.

14. All temporary fills, including sand bags, in the waters of the United States must be completely removed within 30 days of the end of the flood emergency and disposed of in accordance with special conditions included in the regional permit.

15. This permit does not authorize construction in any environmentally sensitive area, such as mussel beds, fish spawning areas, waterfowl nesting areas, etc.

16. Measures must be taken for heavy equipment usage in wetland areas to minimize soil disturbance and compaction. All exposed soils and other fills as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date using permanent native vegetation, bioengineering methods, or armoring.

17. Any excavation or placement of temporary or permanent fill must be performed in a way that would not result in the physical destruction of important fish spawning areas, including smothering of downstream spawning areas via turbidity.

18. Petroleum products, other chemicals, and other unsuitable materials (e.g. trash, debris, asphalt, etc.) will be prevented from entering water bodies, streams, and wetlands.

19. Appropriate soil erosion and sediment control measures must be used and maintained during project construction.

20. Temporary and permanent structures must be installed to maintain low flow conditions and to pass normal and expected high flows.

21. The United States shall not be responsible for damage to property or injuries to persons which may arise from or be incident to the work herein authorized, and the permittee shall hold the United States harmless from any and all such claims, except to the extent that the damage or injury is caused solely by the negligence of the United States.

22. The project proponent must notify the appropriate public or private utility in advance of any work within 250 feet of an underground utility so that the utility is not damaged during construction activities.

23. Parties proposing to undertake work under the provisions of this regional permit must provide prior notification to the appropriate Corps of Engineers District. Information submitted by the proponent must clearly determine whether or not the proposed work complies with the conditions and limitations of the regional permit. The proponent will be notified within approximately 15 workdays if the project is in compliance with the conditions of the regional permit and whether project construction may proceed. However, this will not alleviate the need of the proponent to obtain other applicable state or local authorization.

The following information is required:

- a completed application form.
- a drawing showing the location and details of the proposed or completed work.
- the information submitted must clearly describe the proposed or completed work.

24. Applicable general conditions from the standard individual Department of the Army permit will also be included as conditions of this regional permit.

25. Water quality certification.

- The conditions listed in the Section 401 water quality certification from the Illinois Environmental Protection Agency are considered to be part of this regional permit. (Regional Permit 26)

4. Agency Review.

a. Department of the Army, Corps of Engineers. The Department of the Army application is being processed under the provisions of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

b. State of Illinois.

(1) The proposed regional permit has been submitted to the Illinois Environmental Protection Agency (IEPA) for water quality certification, or waiver thereof, for the proposed activity in accordance with Section 401 of the Clean Water Act. Certification or waiver indicates that IEPA believes the activity will not violate applicable water quality standards. The review by the IEPA is conducted in accordance with the Illinois water quality standards under 35 Illinois Administrative Code Subtitle C. The water quality standards provide for the IEPA to review individual projects by providing an antidegradation assessment, which includes an evaluation of alternatives to any proposed increase in pollutant loading that may result from this activity. The "Fact Sheet" containing the antidegradation assessment for this proposed project may be found on the IEPA's web site, at www.epa.state.il.us/public-notice/. In the event that the IEPA is unable to publish the "Fact Sheet" corresponding to the timeframe of this Joint Public Notice, a separate public notice and "Fact Sheet" will be published by the IEPA at the web site identified above. You may also obtain a copy of the "Fact Sheet" by contacting the IEPA at the address or telephone number shown below. Written comments specifically concerning possible impacts to water quality should be addressed to: Illinois Environmental Protection Agency, Bureau of Water, Watershed Management Section, 1021 N. Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. A copy of the written comments should be provided to the Corps of Engineers. If you have any questions, please contact IEPA at (217) 782-3362.

(2) The Illinois Department of Natural Resources, Office of Natural Resources (IDNR/OWR), is processing the proposed regional permit pursuant to an Act in Relation to the Regulation of the Rivers, Lakes and Streams of the State of Illinois, Chapter 615, ILCS 5 (Illinois Compiled Statutes (1994)). Comments concerning the IDNR/OWR permit should be addressed to the Illinois Department of Natural Resources, Office of Water Resources, One Natural Resources Way, Springfield, Illinois 62702-1271, with a copy provided to the Corps of Engineers (see paragraph 11. of this public notice for address). Mr. Mike Diedrichsen, IDNR/OWR (217/782-3863), may be contacted for additional information.

5. **Historical/Archaeological.** Due to the nature of the proposed project and the impact of the natural disaster, it is anticipated that there will be no potential to affect historical / archaeological resources as a result of this regional permit.

a. Individual projects to be authorized under the regional permit must not be located in the proximity of property listed in the National Register of Historic Places nor in the vicinity of properties eligible for inclusion in the National Register of Historic Places unless, after coordination with the State Historic Preservation Officer of the State of Illinois the Advisory Council on Historic Preservation, a determination of "no adverse effect" is made in accordance with criteria established by 36 CFR 800.

b. Individual projects to be authorized under the regional permit must not be located within sites included in the National Historic Landmarks or any other areas named in Acts of Congress or Presidential proclamations as National Rivers, National Wilderness Areas, National Recreational Areas, National Lakeshores, National Parks, National Monuments, National Wild and Scenic River Systems, National Wild Life Refuge System, and such areas as may be established under Federal Law for similar and related purposes unless the activity is specifically authorized by the appropriate Federal agency.

6. Endangered Species. Individual projects proposed under this regional permit must not adversely affect any species or the critical habitat of any fish and wildlife, or plant which is designated as endangered or threatened pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). Due to the nature of the proposed project and the impact of the natural disaster, it is not anticipated that there will be any impacts to endangered species.

a. No activity is authorized under this Regional Permit which is likely to adversely affect the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

b. Authorization of an activity by this regional permit does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their World Wide Web pages at <http://www.fws.gov/r9endspp/endspp.html> and <http://www.nfms.gov/protres/esahome.html>, respectively.

c. Potential maternity colony trees shall not be removed during the period from May 1 to August 31 to avoid potential adverse impacts to the Indiana bat.

d. The habitat range of the decurrent false aster (*Boltonia decurrens*) in Illinois is located within the floodplain of the Mississippi River (St. Clair, Alexander, Jackson, Monroe, Randolph, and Union Counties) and the floodplain of the Illinois River (Bureau, Fulton, Jersey, Marshall, Mason, Morgan, Peoria, Putnam, Schuyler, Tazewell, Woodford, Brown, Calhoun, Cass, Green, Grundy, LaSalle, Madison, Pike, and Scott Counties). The main areas of concern include the 100-year floodplain of the Mississippi River or the Illinois River or where a tributary stream flows into the 100-year floodplain of Mississippi River or the Illinois River. To minimize any impact to *Boltonia decurrens*, all work in the floodplain of the Illinois River, including stockpiling of material and operation of heavy equipment, should be conducted from the landward side of the levee unless otherwise impracticable. Should activities riverward of the levees be unavoidable, the permittee must arrange for the project site to be investigated by a qualified botanist or environmental scientist for the occurrence of the Federally threatened plant species. Written documentation, provided by the botanist or environmental scientist, must be provided to the Corps of Engineers for consultation with the US Fish and Wildlife Service to ensure compliance with the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 et seq.).

7. Dredge/Fill Material Guidelines. The evaluation of the impact of the proposed activity on the public interest will also include application of the guidelines promulgated by the Administrator of the United States Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

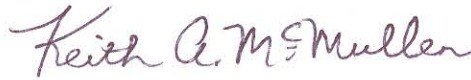
8. Public Interest Review. The decision whether to extend the regional permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

9. Who Should Reply. The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act.

Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. These statements should be submitted on or before the expiration date specified at the top of page 1. These statements should bear upon the adequacy of plans and suitability of locations and should, if appropriate, suggest any changes considered desirable.

10. **Public Hearing Requests.** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided.

11. **Reply to the Corps of Engineers.** Comments concerning the Corps permit should be addressed to the District Engineer, U. S. Army Corps of Engineers, St. Louis District, ATTN: OD-F (Keith A. McMullen), Regulatory Branch, 1222 Spruce, St. Louis, Missouri 63103-2833. **Mr. Keith A. McMullen (314/331-8582)** or Keith.A.Mcmullen@usace.army.mil may be contacted for additional information.



Attach
Plan

Keith A. McMullen
Illinois Section Chief
St. Louis District/Regulatory Branch

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